

Office of Air Quality

Report to the Air Pollution Control Board on Air Permitting Programs

as required by 326 IAC 2-7-19, 326 IAC 2-1.1-8 and IC 13-17-13-3



December 4, 2002

for permit activity during the State Fiscal Year 2002 (FY02):

July 1, 2001 - June 30, 2002

Report to the Air Pollution Control Board on Air Permitting Programs

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Introduction to consolidated Air Board Report on permitting

The Indiana Department of Environmental Management's permitting programs are crucial to the successful implementation of Indiana's pollution control laws. Those affected by these programs - the regulated community, the general public, state and local officials, and the staff at the Indiana Department of Environmental Management (IDEM) - are intensely interested in how these programs are implemented. The IDEM has been very active in providing information on the department's progress in improving the implementation of the various permit programs. In addition to supplying information requested by various groups - most notably the Environmental Quality Service Council - the Office of Air Quality (OAQ) reports annually to the Air Pollution Control Board as required by state law.

Three provisions in the state law – 326 IAC 2-7-19 regarding the permit programs that implement Title V of the federal Clean Air Act; 326 IAC 2-1.1-8 on permit decisions subject to timeliness deadlines; and IC 13-17-13-3 regarding the streamlined Enforceable Operating Agreements – require the OAQ to report on various aspects of our air permit program. In the past, the required information has been presented in one report with three sections, with a separate section for Title V, NSR and Enforceable Operating Agreements. Beginning with the report for 1999, the reports have been integrated into one report that contains all the information required by the three different provisions of state law. In addition, the report also contains additional information that is not required by the underlying legal provisions, but is relevant to the implementation of the programs. This report covers the State Fiscal Year 2002, which began July 1, 2001 and ended June 30, 2002.

The public and interested parties can obtain more information regarding OAQ's construction and operating permit programs via the IDEM website:

www.IN.gov/idem/air/permits. Information on this site includes:

- the monthly EQSC permit report; and
- a link to IDEM's online permit guide; and
- "Air Permits Online" which offers an opportunity to view and download draft and final permit documents, and check on the status of permit applications.

Background and Overview

Historically, the Air Permits Branch was responsible for implementing Indiana's "**New Source Review Program**" (also called "Construction Permits"), which permitted new sources and modifications to existing sources. This program had several levels of approvals, based on emissions.

In 1996, the Branch began implementing the Operating Permit programs that resulted from Title V of the 1990 Clean Air Act Amendments, known as the "**Title V Operating Permit Program**." The U.S. EPA granted interim approval for Indiana's Title V operating permit program on December 14, 1995, and OAQ obtained full EPA approval of the program December 4, 2001. This new program has enabled the Agency to draft a compliance tool (the Title V permit) for the permittee, the Agency, and the public that serves as a single reference for all air pollution related requirements applicable to the permitted source. As a result, the OAQ has been reviewing, standardizing, and updating air operating permits for all significant point sources of air pollution in our state. Compliance rates will increase and emissions to the air will decrease as a result of the permits' focus on monitoring environmentally significant operations.

Since 1990, the OAQ has worked with interested parties to develop relevant legislation, rules, applications, and model permits that will be used to implement Indiana's air operating permit programs. Approximately 1700 sources were affected by these programs in 1990. As new sources have been built, and others have closed, that number has grown to more than 1900. More than 750 of these sources, predominantly major source sources of air pollution, will obtain the permits specifically described by Title V of the Clean Air Act. Sources that would otherwise be required to obtain these Title V permits are covered by permit programs that are specially designed for smaller sources. These programs - Federally Enforceable State Operating Permits (FESOP), Source Specific Operating Agreements, (SSOA) and Permits by Rule - establish limits on a source's potential to emit air pollution to below Title V applicability thresholds. These programs achieve the most practical benefits of the full Title V program with streamlined procedures and lower fees. Title V requires that the direct and indirect cost of these programs be supported by permit fees established by the states.

The OAQ has worked closely with the U.S. EPA and other interested parties to develop model permit language to focus future review on source-specific issues. During the public review periods for initial draft Title V Permits, the OAQ worked with interested parties to further ensure that permits satisfied the requirements of the rules in a practical manner.

At the end of FY02, the OAQ had issued 596 of the 766 Title V applications received prior to December 31, 2001. The OAQ has developed a plan to issue the majority of the remaining 170 permits by June 30, 2003. The OAQ plans to issue all of the initial Title V applications by December 31, 2003 except for applications received after June 30, 2002.

The **Federally Enforceable State Operation Permit (FESOP)** allows sources to limit their air emissions to below the Title V threshold levels. A FESOP is somewhat less complex than a Title V permit and can provide more operational flexibility. Conditions in a FESOP are enforceable by U.S.EPA as well as by IDEM. Many sources seek a FESOP to limit their emissions and not be subject to the Title V program. OAQ has issued 500 FESOPs as of June 30, 2002.

The **Source Specific Operating Agreement Program (SSOA)** addresses specific types of sources that, if unlimited, would have a potential to emit (PTE) at thresholds greater than the major source thresholds for any criteria or hazardous air pollutants. However, the nature of the sources makes it possible to establish realistic operating conditions to limit the PTE to considerably less than major source thresholds. These conditions are specifically established by rule significantly streamlining the application, review, and approval process. OAQ has issued 674 SSOAs as of June 30, 2002.

Sources receiving a SSOA under 326 IAC 2-9 are exempt from the major operating permit program and are not required to submit a Title V or Federally Enforceable State Operating Permit (FESOP) application.

The **Permit by Rule** program exempts certain very small sources from the requirement to obtain an operating approval due to the minimal amount of emissions generated by the source. These sources include all sources that have actual emissions less than 20% of the major source thresholds (without the use of emission controls) as established in 326 IAC 8-2-10, and certain specific categories which, at this time, only include gasoline dispensing and grain elevator operations, as specified in 326 IAC 2-11. By rule, these operations are not required to submit an application, notify the OAQ or get an approval. Consequently, the numbers or types of sources cannot be quantified.

On December 25, 1998, rules became effective that essentially created a unitary permit system, in which only brand new sources will receive a "Construction" permit. All other types of modifications to existing sources receive an Amendment, Modification, or Revision to their existing Operating Permit. To most effectively implement federal requirements for sources that have a Title V permit, OAQ issues separate permits for construction and operation. Implementing the 1998 rules has created several new types of permit approvals, and some new names for previously issued types of approvals. "Permit Accountability," the requirement that approvals be issued within statutorily prescribed timeframes, still applies to agency permit actions in essentially the same manner as before.

Permit Activity Summary

The OAQ Permits Programs achieved several key accomplishments in FY02:

- The OAQ issued 79 first-time Title V Operating Permits during FY02, including 7 whose applications were submitted after 12/31/00, raising the total number issued to 603.
- Indiana has issued significantly more first-time Title V permits than any other state in Region V, and is among the national leaders in issuance of Title V permits.
- In the New Source Review Program, OAQ has maintained 100% on time issuance for significant permit actions subject to accountability deadlines for more than four years. No late permits have been issued since June 1998.
- Full approval of our Title V Operating Permit Program
- Continued to more fully develop activities related to public involvement and environmental justice issues.

The charts on the following pages show more detailed information on permit activity on:

Operating Permit Programs:

First time Title V Operating Permits

Minor Operating Permits

Significant Modifications to Title V Operating Permits

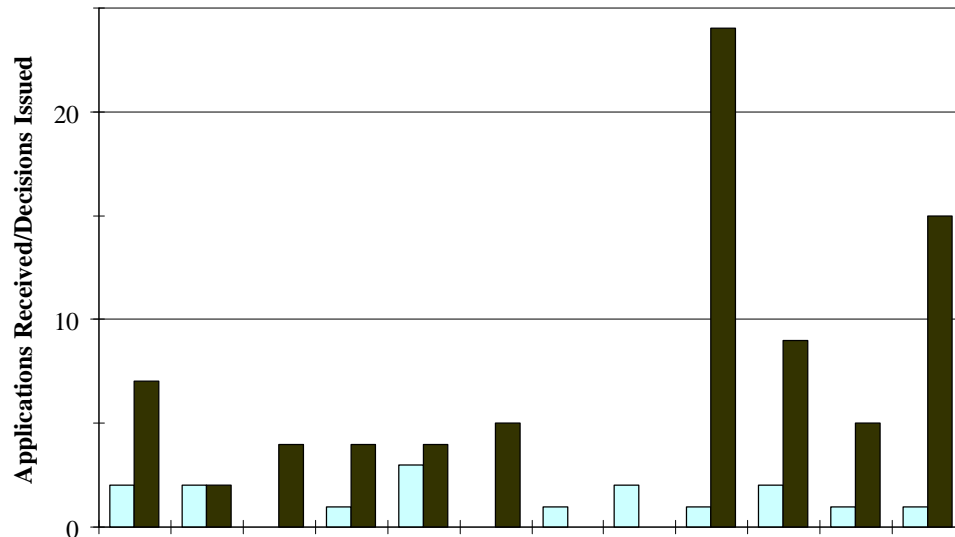
New Source Review Program:

New Construction/Source Modifications

Federal Air Construction Permits

First Time Title V Operating Permits

This chart represents first time Title V Operating permits only. The chart does not include those Title V applications received as part of a combined construction permit/operating permit approval, such as Title V/Enhanced New Source Review, which are instead tracked as construction permits. The chart includes ALL permit decisions, including applications which were combined, withdrawn, or cancelled.

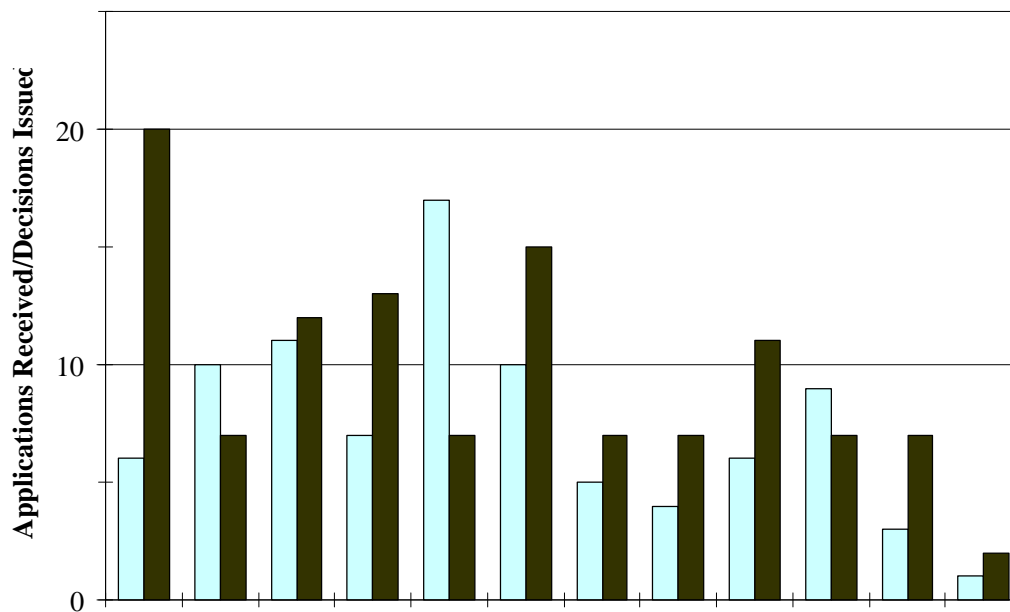


Applications	Jul '01	Aug	Sept	Oct	Nov	Dec	Jan '02	Feb	Mar	Apr	May	Jun	Total
Received	2	2	0	1	3	0	1	2	1	2	1	1	16
Final Decisions	7	2	4	4	4	5	0	0	24	9	5	15	79
Pending (not shown)	247	247	243	240	239	234	235	237	214	207	203	189	

Note: The 1990 Amendments to the Clean Air Act required that the IDEM Office of Air Quality (OAQ) act by December 31, 2000, on all applications for Title V Air Operating Permits received before June 30, 1999. The OAQ has issued the majority of permit decisions required by the deadline, and decisions on the remaining applications are scheduled to be issued in 2002-2003. The chart also includes applications received after June 30, 1999. Applications received after that date must be reviewed, and a permit decision issued within 18 months. To date, forty-six (46) such reviews have been completed and permits issued, with no late permits.

Minor Operating Permits

This chart shows Minor Source Operating Permit (MSOP), the Source Specific Operating Agreements (SSOAs), and Federally Enforceable State Operation Permits (FESOPs). The 1998 rules required existing minor sources without a valid permit to apply for an approval by December 27, 1999. Existing minor sources with operating permits were required to apply by December 26, 2000. The chart does not include those FESOP and MSOP applications received as part of a combined construction permit/operating permit approval, such as FESOP/Enhanced New Source Review, which are instead tracked as construction permits (see page 8). Decisions include permits issued as well as applications withdrawn, combined or denied.

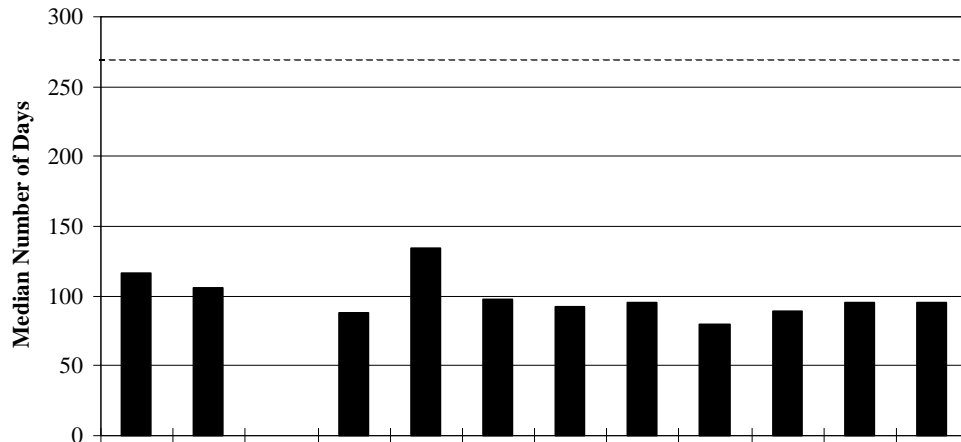


Applications		Jul '01	Aug	Sept	Oct	Nov	Dec	Jan '02	Feb	Mar	Apr	May	Jun	Total
Received		6	10	11	7	17	10	5	4	6	9	3	1	89
Final Decisions		20	7	12	13	7	15	7	7	11	7	7	2	115
Pending (not shown)		116	119	118	112	122	117	115	112	107	109	105	104	

Of the 115 minor source permit decisions made in FY02, 34 were Source Specific Operating Agreements (SSOAs) and 16 were General FESOPs for asphalt plants.

Significant Modifications to Title V Operating Permits: 270 day deadline

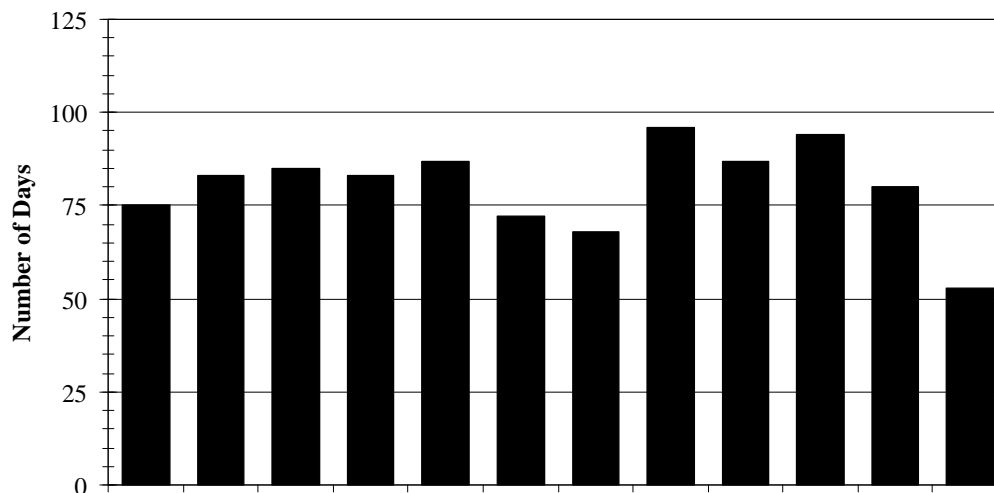
This chart shows approvals for modifications to existing Title V permits, or applications pending for Title V permits. These approvals include both changes that involve only a modification to the operating permit and changes necessary to incorporate preconstruction approvals (shown on page 8) into the operating permit.



Applications	Jul '01	Aug	Sept	Oct	Nov	Dec	Jan '02	Feb	Mar	Apr	May	Jun	Total
Median # of Days to Issue	116	106	0	88	134	98	92	95	80	89	95	95	
#Late Permit Modifications	0	0	0	0	0	0	0	0	0	0	0	0	0
Actual # Modifications Issued	4	5	0	4	10	3	5	1	2	4	3	3	44
Total Applications Received	4	7	7	4	4	5	4	3	6	6	3	1	54
Total Decisions	4	6	1	5	10	3	5	1	2	6	3	8	54
Total Applications Pending	36	37	43	42	36	38	37	39	43	43	43	43	

New Construction/Source Modifications

The first table reports the number of permits **subject to the 120 day deadline** which were approved, and the median number of days it took to issue those permits, which also is depicted in the bar graph.



	Jul 01	Aug	Sep	Oct	Nov	Dec	Jan 02	Feb	Mar	Apr	May	Jun	Total
Median # of days to issue	75	83	85	83	87	72	68	96	87	85	80	53	
# of Permits past deadline	0	0	0	0	0	0	0	0	0	0	0	0	0
# of permits approvals issued	13	9	8	12	14	9	16	4	6	10	8	7	116

The second table represents the total number of applications received, decisions issued, and applications pending for all levels of construction approvals, including: New Construction Permits, Interim Construction Permits, Exemptions, Registrations, applications for combined construction/operating permits (such as FESOP/NSR (Federally Enforceable State Operating Permit/New Source Review), as well as requests for modifications to existing sources, including modifications to Title V sources. Modifications to Title V permits are shown on page 7.

	Jul 01	Aug	Sep	Oct	Nov	Dec	Jan 02	Feb	Mar	Apr	May	Jun	Total
Total applications received	20	19	17	16	14	12	12	16	12	17	17	14	186
Total final decisions	22	17	10	28	31	17	26	10	13	20	17	17	228
Total applications pending	137	139	146	134	117	112	98	104	103	100	100	97	

Federal New Source Review: 270 Day Review

OAQ issued the following permits submit to Federal New Source Review rules, (270 day deadline) in FY02. All permits were issued within the allowable time.

Applicant	County	Date
SIGECO - Broadway Avenue, Ohio River	Vanderburgh	7/19/01
Cogentrix Lawrence County, LLC	Lawrence	10/5/01
SIGECO - AB Brown	Posey	11/16/01
SIGECO - AB Brown	Posey	11/29/01
Cargill, Inc. - Soybean Processing Division	Tippecanoe	12/3/01
Acadia Bay Energy Co., LLC	St. Joseph	12/7/01
Steel Dynamics, Inc.	Whitley	5/31/02
Nucor Steel	Montgomery	6/6/02
Duke Energy Knox II, LLC	Knox	6/12/02

The following information regarding permit activity is not shown on the preceding charts but is required by rule:

Permit Application Increase/reduction:

During FY02 the OAQ received a total of 1536 permit applications; 184 of the 1536 were reviewed by the Local Air Pollution Control Agencies. During this same period last year, OAQ received 1610 permit applications (172 of which were reviewed by the Local Agencies) for a 4.5% decrease in workload.

Public Hearings:

Six public hearings were conducted by the Office of Air Quality during FY02; during this same period last year the OAQ conducted fifteen public hearings.

Appeals and Objections:

In the Title V Program, three petitions for review of first-time Title V permits and 17 requests for review of approvals for modifications to existing sources and/or existing source operating permits were filed. In the New Source Review Program, one petition for review was raised near the last day of FY02. Because the appeal was raised at the end of the fiscal year, staff spent little time working on this appeal during FY02. (However OLC staff worked approximately 100 hours on this appeal during the beginning of the following fiscal year.) The Office of Legal Counsel (OLC), representing IDEM, worked approximately 1,500 hours on these cases and preexisting cases. Staff in the Permits Branch worked approximately 2,000 hours assisting OLC attorneys with the litigation and settlement of permit issues. Twenty-one air permit appeal cases were settled, dismissed or withdrawn in FY02.

Notices of Deficiency/Requests for Additional Information:

During FY02, the OAQ issued 81 Administrative Notices of Deficiency (for information such as missing or incomplete forms) and 421 Technical Notices of Deficiency. During the previous fiscal year, the OAQ issued 104 Administrative Notices of Deficiency and 461 Technical Notices of Deficiency.

Financial Information:

Air Program Permit Fee Collections and Revenues Expenditures:

IDEM expended \$5,932,313 in salary and benefits in FY02. This includes salary and benefits paid to Air Permit Branch staff and to staff supporting the Title V Program, such as our Compliance Branch, Office of Enforcement, and Office of Legal Counsel. In addition, \$2,062,454 was spent on permit review contract assistance during FY01. Title V Operating Permit Program expenditures totaled \$12,037,013 in FY02. The OAQ collected \$10,806,170 in fees during FY02.

No permit fees were refunded under 326 2-1.18(m) and (n) in FY02 because there were no late permit decisions.

Future Operating Costs:

Future operating costs of the permit program during FY03 are expected to be somewhat higher than the past year, due to:

- < Title V Operating Permit Workload results in an anticipated increase in contractor payments for Title V and New Source Review. In FY 02, OAQ spent approximately 69% of the \$3,000,000 permit review contract; OAQ has a contract for \$3,600,000 in place for FY03 and anticipates expending a higher portion of that contract for permit review.
- < Increasing number of Title V permit modifications;
- < New NESHAPs resulting in more development of model permit language;
- < OAQ has approval for \$50,000 to fund overtime for permit review staff to ensure we meet our Title V and NSR permit goals;
- < Increased workload due to review of Title V renewal applications which will begin to arrive during FY 03; and
- < Increased workload due to anticipated receipt of approximately 400 Part 2 applications under Section 112j of the Clean Air Act. As of November 1, 2002, it is unclear how the settlement of *Earth Justice v. Whitman* will affect this.

The 1998 rules were intended to reduce the level of approval required for many types of source modification. Because the fees associated with a given level of approval are closely associated to the average cost, the overall new source review fees are expected to continue track OAQ costs.

Description of any monies deposited into the Title V Operating Trust Fund that were obtained by means other than the fees paid under Title V:

Only fees collected from Title V, FESOP, and SSOA sources have been deposited into the Title V Operating Permit Trust Fund. No other monies have been deposited.

Review of Fee Schedule

The Commissioner may adjust the fee schedule using the revision of the Consumer Price Index (CPI) which is most consistent with the CPI for calendar year 1995. The Commissioner may also adjust the fee schedule in the event that revenues do not total \$13,700,000. Revenues in FY02 did not total this amount. At this time, IDEM has not recommended an adjustment to the existing fee schedule. Any such request will be presented to the Air Pollution Control Board as required.

Adjustments to Fee Schedule

IDEM is required to review the balance of the trust fund as of July 1 and determine, once obligated funds are subtracted, whether the balance of the fund exceeds \$3,000,000. If that amount is exceeded, IDEM must adjust the fee payment schedule for the next billing cycle to return any excess trust fund monies. The IDEM Controller has conducted this review, furnished below, and has determined that the unobligated fund balance in the Title V fund will be less than \$3,000,000.

Indiana Department of Environmental Management
Analysis of Title V cash balance and available funds

Cash Balance per Auditor of State 6/30/2002*	14,580,213
Less Outstanding Obligations**	(1,597,824)
Sub-total	12,982,389
Less Fiscal Year 2003 charges for Agency Wide Services	(2,687,899)
Less 3/4 of Fiscal Year 2003 Budget	(7,470,376)
Unobligated Fund Balance	2,824,114

*The Auditor's cash balance report is provided on page 12.

**The obligations are reduced by \$4,067,845 in Contractual Services that are expected.

Adequacy of Fees collected:

IDEM believes that the current fee schedule is adequate to fund the Title V permit program. While expenditures exceed fee revenue by \$1,230,843, IDEM's analysis shows that the minimum unobligated fund balance during FY03 will be no less than \$2,824,114. Therefore, IDEM does not recommend any adjustments to the rule's fee schedule at this time.

Indiana Department of Environmental Management

Title V: 2760

Auditor's Cash Balance Report

As of June 30, 2002

CASH BALANCE, 7/1/01		\$15,811,056
REVENUE:		
FEES	\$10,737,012	
PRIOR YEAR	\$1,833	
TRANSFER	<u>\$67,325</u>	
REVENUE:		<u>\$10,806,170</u>
TOTAL REVENUE		\$26,617,226
EXPENSES:		
PERSONAL SERVICES		(\$5,932,313)
OTHER SERVICES		(\$97,589)
CONTRACTUAL SERVICES		(\$2,576,074)
SUPPLIES		(\$52,929)
EQUIPMENT		(\$217,348)
SWICAP TRANSFER		(\$274,130)
AWS SUPPORT		(\$2,687,899)
GRANTS		(\$150,581)
IN-STATE TRAVEL		(\$39,031)
OUT-OF-STATE TRAVEL		<u>(\$9,119)</u>
TOTAL EXPENSES:		<u>(\$ 12,037,013)</u>
AUDITOR'S FUND BALANCE		<u>\$14,580,213</u>
OUTSTANDING OBLIGATIONS:		
CONTRACTUAL SERVICES		(\$5,622,809)
SUPPLIES		(\$6,144)
EQUIPMENT		<u>(\$31,476)</u>
TOTAL OUTSTANDING OBLIGATIONS:		(\$5,660,430)
AVAILABLE CASH BALANCE		<u>\$8,919,783</u>

Air Permits Program Improvements and Accomplishments during FY02

Full EPA Approval of Title V Program

- < OAQ permit staff worked closely with U.S. EPA and Region V staff to make the necessary changes to our Title V Operating Program in order to receive full approval from EPA. Under a court approved settlement, EPA published a notice in December 2000 informing the public of an opportunity to identify any deficiencies in any Title V Operating Permit Program. Several deficiencies were identified in Indiana's program, and in December 2001 EPA published a notice acknowledging that the necessary rulemaking to satisfactorily correct the deficiencies was nearly complete. EPA subsequently took action on Indiana's 1996 submittal addressing the interim approval issues identified in 1995 and granted final approval of the Indiana's Title V program on December 4, 2001.

Submitted request for Federal Approval of PSD Program

- < Permits and Rules staff wrote rules which became effective on January 19, 2001, and the SIP submittal was sent to EPA for approval on February 1, 2002.

Continued focus on staff training, including:

- < Ron Joseph, a recognized expert in surface coating technology, conducted a 2-day training on the regulation of VOC emissions from surface coating operations. Key aspects of the training included how to perform calculations, and how to measure compliance. Permit writers and Local agency representatives attended the training, which was held in Indianapolis.
- < Permits, Compliance, Legal Counsel, and Rules staff attended a 3-day Effective Permit Writing class. The course provided staff with the tools to identify the components of an effective permit condition and to write conditions that are enforceable, easily understood, and non-repetitive. The course was taught by Gary McCutchen, who was responsible for implementation of the NSR program nationwide during his twenty-six years with the U.S. EPA.
- < The "RBLC" Clearinghouse is a database listing accepted RACT, BACT, and LAER determinations for various facilities around the country. Three permit staff attended an EPA Workshop in Chicago designed to solicit suggestions of ways to keep the database up to date and increase its usefulness.
- < Many staff also participated in a wide variety of video and Internet based training offered by the U.S. EPA and Air Pollution Training Institute (APTI).

Continued Refinement of Model Permits

- < The Permits Branch has continued to refine our model permits to add new language to better fit specific cases, and to add standardized sections for different types of facilities.

Title V renewals:

- < First-time Title V Operating Permits will begin to expire in FY03. OAQ has developed a streamlined application and renewal process and will be reviewing and issuing the renewals in a timely manner.

General asphalt FESOP:

- < OAQ developed a General FESOP for asphalt plants which streamlined the approval process for these sources. The terms of the permit do not vary from source to source. The provisions of the General Permit were published in the Indiana Register and in at least one newspaper in every county to provide the public with an opportunity to comment and request a public hearing. During FY02, OAQ received 18 applications for this type of permit. Two applications were withdrawn by the applicant and the remaining 16 permits were issued.

Increased Public Participation activities:

- < In coordination with U.S. EPA and the Earth Day Coalition, OAQ held a 2-day citizen training on the New Source Review permitting process for major sources of air pollution;
- < IDEM's Air Permits and Land Permits staff, in coordination with the Indianapolis Urban League, conducted a public meeting regarding the permits for two potential Indianapolis environmental justice sources;
- < IDEM has developed written materials written in "plain English" which are easier for the public to understand, such as: a notice with Final permit decisions that explains how to appeal; Public notices; and handouts at all public hearings which describe the facility and the permit review process.
- < OAQ held a public meeting in East Chicago regarding the air approval for the Indiana Harbor Ship Canal Dredging project. The level of approval required did not require a public comment period or opportunity to request a hearing, but OAQ offered this opportunity for the public to comment and ask questions because of the high level of public interest. The final approval incorporated many of the comments and suggestions made at the meeting.
- < Maps based on 2000 census data showing areas of potential environmental justice concern are available to help staff plan and publicize outreach activities.

Implementation of Section 112j MACT Hammer Provisions

- < Section 112j of the Clean Air Act applies to certain facilities that are considered major sources of hazardous air pollutants. OAQ developed an outreach package, including an application form and instructions, to address how Section 112(j), commonly referred to as the "MACT Hammer," affects Indiana sources. OAQ staff developed application forms and provided outreach to the affected sources. During FY02 OAQ received 514 Part 1 applications from 339 sources. Of the 514 applications, 275 require applicability determinations.

Priorities for the Air Permits Program for the next 12 months:

- a. Construction permits for new and modified sources: Render all permit decisions for new sources and modifications of existing sources as timely as possible and always within permit accountability time frames without compromising public input.
- b. Issue Title V Permits: Make decisions on all but 40(5%) of Title V applications received prior to December 31, 2001 by June 30, 2003.
- c. Issue all FESOP and Title V renewals.
- d. Review changes to the federal new source review rules, confer with interested parties, and recommend that the Air Pollution Control Board adopt appropriate revisions to Indiana's new source review rules.
- e. Continue efforts to enhance the public's ability to effectively participate in the OAQ permit review process, and develop strategies to address to Environmental Justice issues.
- f. Continue implementation of Section 112j MACT Hammer Provisions by developing Part 2 application forms.